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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/285,363 08/03/94 BECKER

R 083096

04M1/0109

 DOCKET ADMINISTRATOR  
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EXAMINER

ART UNIT PAPER NUMBER

2412

DATE MAILED: 01/09/97

due 4/5/97

 This is a communication from the examiner in charge of your application.  
 COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 9.5.96 ☐ This action is made final.

 A shortened statutory period for response to this action is set to expire 03 month(s), \_\_\_\_\_ days from the date of this letter.  
 Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.<br>3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.<br>5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948.<br>4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.<br>6. <input type="checkbox"/> _____ |
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**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-38 are pending in the application.  
 Of the above, claims 11-14 are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1-38 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_ Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_ has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other \_\_\_\_\_

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1. The reissue oath or declaration filed with this application is defective because it fails to contain a statement that the applicant believes the original patent to be wholly or partially inoperative or invalid, as required under 37 C.F.R. § 1.175(a)(1).

The declaration fails to establish for the file record, that the errors sought to be corrected are without deceptive intent within the meaning of 35 U.S.C. § 251.

1. The declaration fails to distinctly specify the excesses or insufficiencies in the claims, i.e., how the error(s) has been rectified by specifically pointing out the difference in scope between the original claims and the amended or added reissue claims. 37 CFR 1.175(a)(3) [MPEP 1414.01].

The rule requires "distinctly specify," not broad statements as is found in the instant declaration; e.g., do the insufficiencies or errors occur due to the lacking of the "slider bars?," and how the "slider bars" (line 15 in page 2 of the Declaration) rectifies these errors?; or why the "thickness of the line" can rectify the error(s), if exists in claims 2, 14, and 26?

2. The declaration fails to specifically point out the errors and how they arose or occurred, i.e., specifically when and the manner in which they occurred. 37 CFR 1.175(a)(5) [MPEP 1414.03].

The declaration states that the inventor recognized in the error in "early 1994", but does not identify who made the error. Who made the error? Why was the subject matter presented in the newly added claims not claimed during the original prosecution of the patent? What was the specific day of the "early 1994"?

Is the applicant alleging that the error arose due to the prosecuting attorney? Did the inventors play any role during the original prosecution, especially S.G. Eick, the coinventor?

If the attorney failed to recognize the scope of coverage needed or possible then an oath or declaration from the attorney would be necessary.

Did the inventor fail to appreciate the claim limitations at the time of the original prosecution? If so then this should be stated.

3. The oath or declaration fails to specifically point out how and when the errors were discovered, i.e., the circumstances (including date as specified as possible) under which applicant became aware of the errors. 37 CFR 1.175(a)(5) [MPEP 1414.03].

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For what reason(s) was the patent reviewed by the inventor? Is there any date more specific than "in early 1994, in connection with a routine review of the aforementioned patent"? [Page 2 of Declaration]. If it is a routine review, why was it not done earlier?

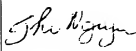
**FORMAL REQUIREMENTS:**

The following still remains:

1. The amendment filed August 15, 1995 is in improper format and was improperly entered by the LIE. As per 37 CFR 1.121(a) and (e) and MPEP 1411 & 1455, new claims submitted by reissue, if rewritten must be underlined in total and contain no bracket.
2. Prior art cited in the original patent has not been made of record. [MPEP 1418].
2. Claims 1-38 are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. See 37 C.F.R. § 1.175.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Nguyen whose telephone number is (703) 305-9796.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

P. Nguyen/cd  
December 10, 1996

  
PHU K. NGUYEN  
PRIMARY EXAMINER  
GROUP 2400